

STATE OF SOUTH CAROLINA )  
 COUNTY OF BAMBERG )  
 )  
 JUAN M. NIMMONS, S.C.D.C. # 256828, )  
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 Applicant, )  
 )  
 )  
 v. )  
 STATE OF SOUTH CAROLINA, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 FOR THE SECOND JUDICIAL CIRCUIT

Case No.: 2020-CP-05-00204

**FINAL ORDER OF DISMISSAL**

CLERK OF COURT  
 BAMBORG COUNTY  
 2023 MAY 30 AM 9:47

2023 MAY 30 AM 9:47

FILED  
 BAMBORG COUNTY

This matter comes before the Court by way of three applications for post-conviction relief filed by Applicant Juan M. Nimmons on December 2, 2020 (CP No. 2020-CP-05-00204), March 29, 2021 (CP No. 2021-CP-05-00077), and October 25, 2021 (CP No. 2021-CP-05-00515).<sup>1</sup> Respondent made its return to the applications, moving to merge the two applications filed in 2021 into the 2020 application, and moving to summarily dismiss the actions as procedurally barred as successive, untimely, and for failing to make a prima facie showing of newly discovered evidence pursuant to the Uniform Post-Conviction Procedures Act, S.C. Code Ann. § 17-27-10 et seq. (2014).

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued an Order Merging the Post-Conviction Relief Applications and Conditional Order of Dismissal signed on July 13, 2022, and filed on July 18, 2022, ordering the merger of the post-conviction relief cases and provisionally denying and dismissing this action, while giving the Applicant 20 days from the date of service of said Order in which to show why the dismissal should not become final. Attached to his Final Order and

<sup>1</sup> After the filing of the Conditional Order of Dismissal but before the issuance of this Order, Applicant has filed another post-conviction relief application (2022-CP-05-00180). The State will respond to that application in a separate action.

incorporated herein by reference is an Affidavit of Service dated August 9, 2022, serving the above-mentioned Order Merging the Post-Conviction Relief Applications and Conditional Order of Dismissal on Applicant.

Applicant submitted a *pro se* response to the Conditional Order of Dismissal dated August 4, 2022<sup>2</sup>. In this response, Applicant asserts:

- I, Juan Nimmons, *pro se*, object to the dismissal to the above three (3) applications for the following reasons specifically case no. 2021-CP-05-00515. Application can be raised and issues raise at anytime under the umbrella of after-discovered or newly-discovered evidence. The issue have to be raised within one-year of knowing about it. *See McCoy v. State*, 401 S.E. 363 (2013). Applicant contend there is no way possible specifically I could have known about the “Plea” agreement so I filed PCR 2021-CP-05-00515. I ask this Hon. Court that this application be heard. This is my *prima facie* showing before the Court.

Applicant has failed to set forth sufficient reason why the issues he now raises were not raised in his prior applications. Applicant contends it was not possible for him to have known about the “plea agreement” yet offers no additional facts or grounds supporting this assertion. As stated in the Conditional Order of Dismissal, Applicant fails to provide any sufficient explanation as to why his application should be considered timely, as this claim either was or should have been ascertained at the time of trial or within one year of the conclusion of his direct appeal and raised in his initial post-conviction relief action—not his fifth, sixth, and seventh applications over two decades later. Applicant has failed to make a *prima facie* showing he is entitled to relief.

After careful review of the Applicant’s claims and the applicable law in the State of South Carolina, this Court finds that Applicant failed to present sufficient cause for filing after the statute of limitations expired or for filing a successive application. Accordingly, this Court finds that Applicant’s response is not sufficient to show why the Conditional Order of Dismissal served upon

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<sup>2</sup> Prior to the issuance of this Order, Applicant filed a “Declaratory Judgment” which the State has construed as an amendment to his pending post-conviction relief application (2022-CP-05-00180) and will be addressed in that separate action.

him should not become final. IT IS THEREFORE ORDERED that, for the reasons set forth in the Court's Conditional Order of Dismissal, the application for PCR is hereby denied and dismissed with prejudice.

This Court hereby advises Applicant that he must file and serve a Notice of Appeal within thirty (30) days of the service of this Order to secure appellate review. See Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 25 day of May, 2023.



COURTNEY CLYBURN POPE  
Chief Judge for Administrative Purpose  
Second Judicial Circuit

Lee, South Carolina